



Reprinted
January 31, 2006

SENATE BILL No. 217

DIGEST OF SB 217 (Updated January 30, 2006 4:55 pm - DI 73)

Citations Affected: IC 36-7.

Synopsis: Redevelopment commission housing programs. Permits redevelopment commissions in counties other than Marion County to establish a housing program and a tax increment funding allocation area for that program. (Current law allows Marion County to establish such a program.)

Effective: July 1, 2006.

**Broden, Wyss, Kenley, Mrvan,
Alting, Zakas**

January 9, 2006, read first time and referred to Committee on Tax and Fiscal Policy.
January 26, 2006, amended, reported favorably — Do Pass.
January 30, 2006, read second time, amended, ordered engrossed.

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SB 217—LS 6561/DI 73+



Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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SENATE BILL No. 217

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-14-35 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 35. (a) In order to:
3 (1) undertake survey and planning activities under this chapter;
4 (2) undertake and carry out any redevelopment project, ~~or~~ urban
5 renewal project, **or housing program**;
6 (3) pay principal and interest on any advances;
7 (4) pay or retire any bonds and interest on them; or
8 (5) refund loans previously made under this section;
9 the redevelopment commission may apply for and accept advances,
10 short term and long term loans, grants, contributions, and any other
11 form of financial assistance from the federal government, or from any
12 of its agencies. The commission may also enter into and carry out
13 contracts and agreements in connection with that financial assistance
14 upon the terms and conditions that the commission considers
15 reasonable and appropriate, as long as those terms and conditions are
16 not inconsistent with the purposes of this chapter. The provisions of
17 such a contract or agreement in regard to the handling, deposit, and

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1 application of project funds, as well as all other provisions, are valid
2 and binding on the unit or its executive departments and officers, as
3 well as the commission, notwithstanding any other provision of this
4 chapter.

5 (b) The redevelopment commission may issue and sell bonds, notes,
6 or warrants to the federal government to evidence short term or long
7 term loans made under this section, without notice of sale being given
8 or a public offering being made.

9 (c) Notwithstanding the provisions of this or any other chapter,
10 bonds, notes, or warrants issued by the redevelopment commission
11 under this section may:

- 12 (1) be in the amounts, form, or denomination;
- 13 (2) be either coupon or registered;
- 14 (3) carry conversion or other privileges;
- 15 (4) have a rank or priority;
- 16 (5) be of such description;
- 17 (6) be secured (subject to other provisions of this section) in such
18 manner;
- 19 (7) bear interest at a rate or rates;
- 20 (8) be payable as to both principal and interest in a medium of
21 payment, at a time or times (which may be upon demand) and at
22 a place or places;
- 23 (9) be subject to terms of redemption (with or without premium);
- 24 (10) contain or be subject to any covenants, conditions, and
25 provisions; and
- 26 (11) have any other characteristics;

27 that the commission considers reasonable and appropriate.

28 (d) Bonds, notes, or warrants issued under this section are not an
29 indebtedness of the unit or taxing district within the meaning of any
30 constitutional or statutory limitation of indebtedness. The bonds, notes,
31 or warrants are not payable from or secured by a levy of taxes, but are
32 payable only from and secured only by income, funds, and properties
33 of the project becoming available to the redevelopment commission
34 under this chapter, as the commission specifies in the resolution
35 authorizing their issuance.

36 (e) Bonds, notes, or warrants issued under this section are exempt
37 from taxation for all purposes.

38 (f) Bonds, notes, or warrants issued under this section must be
39 executed by the appropriate officers of the unit in the name of the "City
40 (or Town or County) of _____, Department of
41 Redevelopment", and must be attested by the appropriate officers of the
42 unit.

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1 (g) Following the adoption of the resolution authorizing the issuance
2 of bonds, notes, or warrants under this section, the redevelopment
3 commission shall certify a copy of that resolution to the officers of the
4 unit who have duties with respect to bonds, notes, or warrants of the
5 unit. At the proper time, the commission shall deliver to the officers the
6 unexecuted bonds, notes, or warrants prepared for execution in
7 accordance with the resolution.

8 (h) All bonds, notes, or warrants issued under this section shall be
9 sold by the officers of the unit who have duties with respect to the sale
10 of bonds, notes, or warrants of the unit. If an officer whose signature
11 appears on any bonds, notes, or warrants issued under this section
12 leaves office before their delivery, the signature remains valid and
13 sufficient for all purposes as if ~~he~~ **the officer** had remained in office
14 until the delivery.

15 (i) If at any time during the life of a loan contract or agreement
16 under this section the redevelopment commission can obtain loans for
17 the purposes of this section from sources other than the federal
18 government at interest rates not less favorable than provided in the loan
19 contract or agreement, and if the loan contract or agreement so permits,
20 the commission may do so and may pledge the loan contract and any
21 rights under that contract as security for the repayment of the loans
22 obtained from other sources. Any loan under this subsection may be
23 evidenced by bonds, notes, or warrants issued and secured in the same
24 manner as provided in this section for loans from the federal
25 government. These bonds, notes, or warrants may be sold at either
26 public or private sale, as the commission considers appropriate.

27 (j) Money obtained from the federal government or from other
28 sources under this section, and money that is required by a contract or
29 agreement under this section to be used for project expenditure
30 purposes, repayment of survey and planning advances, or repayment of
31 temporary or definitive loans, may be expended by the redevelopment
32 commission without regard to any law pertaining to the making and
33 approval of budgets, appropriations, and expenditures.

34 (k) Bonds, notes, or warrants issued under this section are declared
35 to be issued for an essential public and governmental purpose.

36 SECTION 2. IC 36-7-14-45 IS ADDED TO THE INDIANA CODE
37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
38 1, 2006]: **Sec. 45. (a) The commission may establish a program for
39 housing by resolution. The program, which may include any
40 relevant elements the commission considers appropriate, may be
41 adopted as part of a redevelopment plan or amendment to a
42 redevelopment plan, and must establish an allocation area for**

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1 purposes of sections 39 and 48 of this chapter for the
2 accomplishment of the program. The program must be approved
3 by the municipal legislative body or county executive as specified
4 in section 17 of this chapter.

5 (b) The notice and hearing provisions of sections 17 and 17.5 of
6 this chapter, including notice under section 17(c) of this chapter to
7 a taxing unit that is wholly or partly located within an allocation
8 area, apply to the resolution adopted under subsection (a). Judicial
9 review of the resolution may be made under section 18 of this
10 chapter.

11 (c) Before formal submission of any housing program to the
12 commission, the department of redevelopment:

13 (1) shall consult with persons interested in or affected by the
14 proposed program;

15 (2) shall provide the affected neighborhood associations,
16 residents, and township assessors with an adequate
17 opportunity to participate in an advisory role in planning,
18 implementing, and evaluating the proposed program; and

19 (3) shall hold public meetings in the affected neighborhood to
20 obtain the views of neighborhood associations and residents.

21 SECTION 3. IC 36-7-14-46 IS ADDED TO THE INDIANA CODE
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
23 1, 2006]: Sec. 46. (a) Except as provided in subsection (b), all the
24 rights, powers, privileges, and immunities that may be exercised by
25 the commission in blighted, deteriorated, or deteriorating areas
26 may be exercised by the commission in implementing its program
27 for housing, including the following:

28 (1) The special tax levied in accordance with section 27 of this
29 chapter may be used to accomplish the housing program.

30 (2) Bonds may be issued under this chapter to accomplish the
31 housing program, but only one (1) issue of bonds may be
32 issued and payable from increments in any allocation area
33 except for refunding bonds or bonds issued in an amount
34 necessary to complete a housing program for which bonds
35 were previously issued.

36 (3) Leases may be entered into under this chapter to
37 accomplish the housing program.

38 (4) The tax exemptions set forth in section 37 of this chapter
39 are applicable.

40 (5) Property taxes may be allocated under section 39 of this
41 chapter.

42 (b) A commission may not exercise the power of eminent

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domain in implementing its program for housing.

SECTION 4. IC 36-7-14-47 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 47. The commission must make the following findings in the resolution adopting a housing program under section 45 of this chapter:

- (1) Not more than twenty-five (25) acres of the area included in the allocation area has been annexed during the preceding five (5) years.**
- (2) No area within the allocation area has been annexed within the preceding five (5) years over a remonstrance of a majority of the owners of land within the annexed area.**
- (3) The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:**
 - (A) lack of public improvements;**
 - (B) existence of improvements or conditions that lower the value of the land below that of nearby land; or**
 - (C) other similar conditions.**
- (4) The public health and welfare will be benefited by accomplishment of the program.**
- (5) The accomplishment of the program will be of public utility and benefit as measured by:**
 - (A) the provision of adequate housing for low and moderate income persons;**
 - (B) an increase in the property tax base; or**
 - (C) other similar public benefits.**
- (6) At least one-third (1/3) of the parcels in the allocation area established by the program are vacant.**
- (7) At least seventy-five percent (75%) of the allocation area is used for residential purposes or is planned to be used for residential purposes.**
- (8) At least one-third (1/3) of the residential units in the allocation area were constructed before 1941.**
- (9) At least one-third (1/3) of the parcels in the allocation area have at least one (1) of the following characteristics:**
 - (A) The dwelling unit on the parcel is not permanently occupied.**
 - (B) The parcel is the subject of a governmental order, issued under a statute or an ordinance, requiring the correction of a housing code violation or unsafe building condition.**

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(C) Two (2) or more property tax payments on the parcel are delinquent.

(D) The parcel is owned by local, state, or federal government.

(10) The total area within the county or municipality that is included in any allocation area established for a housing program under section 45 of this chapter does not exceed one hundred fifty (150) acres.

SECTION 5. IC 36-7-14-48 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 48. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 45 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.**

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

- (1) The construction, rehabilitation, or repair of residential units within the allocation area.**
- (2) The construction, reconstruction, or repair of any infrastructure (including streets, sidewalks, and sewers) within or serving the allocation area.**
- (3) The acquisition of real property and interests in real property within the allocation area.**
- (4) The demolition of real property within the allocation area.**
- (5) The provision of financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.**
- (6) The provision of financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).**
- (7) Providing each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, the commission may provide this credit**

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only if the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 45 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

- (A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4(a)(1) that is attributable to the taxing district; by
- (B) the amount determined under STEP ONE.

STEP THREE: Multiply:

- (A) the STEP TWO quotient; by
- (B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) The commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c). Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable on May 10 and November 10 of a year. The commission must provide for the credit annually by a resolution and must find in the resolution the following:

- (1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.
- (2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

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1 (3) If bonds of a lessor under section 25.2 of this chapter or
2 under IC 36-1-10 are outstanding and if lease rentals are
3 payable from the fund, that there is a debt service reserve for
4 those bonds that at least equals the amount of the credit to be
5 granted.

6 If the tax increment is insufficient to grant the credit in full, the
7 commission may grant the credit in part, prorated among all
8 taxpayers.

9 (e) Notwithstanding section 39(b) of this chapter, the allocation
10 fund established under section 39(b) of this chapter for the
11 allocation area for a program adopted under section 45 of this
12 chapter may only be used to do one (1) or more of the following:

13 (1) Accomplish one (1) or more of the actions set forth in
14 section 39(b)(2)(A) through 39(b)(2)(H) and 39(b)(2)(J) of this
15 chapter for property that is residential in nature.

16 (2) Reimburse the county or municipality for expenditures
17 made by the county or municipality in order to accomplish the
18 housing program in that allocation area.

19 The allocation fund may not be used for operating expenses of the
20 commission.

21 (f) Notwithstanding section 39(b) of this chapter, the
22 commission shall, relative to the allocation fund established under
23 section 39(b) of this chapter for an allocation area for a program
24 adopted under section 45 of this chapter, do the following before
25 July 15 of each year:

26 (1) Determine the amount, if any, by which property taxes
27 payable to the allocation fund in the following year will exceed
28 the amount of property taxes necessary:

29 (A) to make, when due, principal and interest payments on
30 bonds described in section 39(b)(2) of this chapter;

31 (B) to pay the amount necessary for other purposes
32 described in section 39(b)(2) of this chapter; and

33 (C) to reimburse the county or municipality for anticipated
34 expenditures described in subsection (e)(2).

35 (2) Notify the county auditor of the amount, if any, of excess
36 property taxes that the commission has determined may be
37 paid to the respective taxing units in the manner prescribed
38 in section 39(b)(1) of this chapter.

39 (g) This subsection applies to an allocation area only to the
40 extent that the net assessed value of property that is assessed as
41 residential property under the rules of the department of local
42 government finance is not included in the base assessed value. If

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1 **property tax installments with respect to a homestead (as defined**
2 **in IC 6-1.1-20.9-1) are due in installments established by the**
3 **department of local government finance under IC 6-1.1-22-9.5,**
4 **each taxpayer subject to those installments in an allocation area is**
5 **entitled to an additional credit under subsection (d) for the taxes**
6 **(as defined in IC 6-1.1-21-2) due in installments. The credit shall be**
7 **applied in the same proportion to each installment of taxes (as**
8 **defined in IC 6-1.1-21-2).**

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SENATE MOTION

Madam President: I move that Senator Wyss be added as second author of Senate Bill 217.

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SENATE MOTION

Madam President: I move that Senator Kenley be added as coauthor of Senate Bill 217.

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SENATE MOTION

Madam President: I move that Senators Mrvan and Alting be added as coauthors of Senate Bill 217.

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SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Senate Bill 217.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 217, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 36 through 42.

Delete page 4.

Page 5, line 1, delete "chapter."

Page 5, line 2, delete "IC 36-7-14-46" and insert "IC 36-7-14-45".

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Page 5, line 4, delete "46." and insert "45."

Page 5, line 5, after "any" insert "relevant".

Page 5, line 9, delete "49" and insert "48".

Page 5, line 9, after "program." insert "**The program must be approved by the municipal legislative body or county executive as specified in section 17 of this chapter.**".

Page 5, line 11, after "chapter" insert ", including notice under section 17(c) of this chapter to a taxing unit that is wholly or partly located within an allocation area,".

Page 5, line 22, delete "may" and insert "shall".

Page 5, line 24, delete "IC 36-7-14-47" and insert "IC 36-7-14-46".

Page 5, line 26, delete "47. All" and insert "**46. (a) Except as provided in subsection (b), all**".

Page 6, between lines 1 and 2, begin a new paragraph and insert:

"(b) A commission may not exercise the power of eminent domain in implementing its program for housing."

Page 6, line 2, delete "IC 36-7-14-48" and insert "IC 36-7-14-47".

Page 6, line 4, delete "48." and insert "47."

Page 6, line 5, delete "46" and insert "45".

Page 6, line 7, delete "The program meets the purposes of section 45 of this" and insert "**Not more than twenty-five (25) acres of the area included in the allocation area has been annexed during the preceding five (5) years.**".

Page 6, delete line 8.

Page 6, line 26, delete "One hundred percent (100%)" and insert "**At least seventy-five percent (75%)**".

Page 7, line 1, delete "allocation area" and insert "**county or municipality that is included in any allocation area established for a housing program under section 45 of this chapter**".

Page 7, line 3, delete "IC 36-7-14-49" and insert "IC 36-7-14-48".

Page 7, line 5, delete "49." and insert "48."

Page 7, line 7, delete "46" and insert "45".

Page 7, line 9, delete "land" and insert "**property, other than personal property**".

Page 7, delete lines 12 through 13.

Page 7, line 16, delete "46" and insert "45".

Page 8, line 5, delete "46" and insert "45".

Page 9, line 6, delete "46" and insert "45".

Page 9, line 19, delete "46" and insert "45".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 217 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 217 be amended to read as follows:

Page 5, after line 9, begin a new paragraph and insert:

"(2) No area within the allocation area has been annexed within the preceding five (5) years over a remonstrance of a majority of the owners of land within the annexed area."

Page 5, line 10 delete "(2)" and insert "(3)".

Page 5, line 17, delete "(3)" and insert "(4)".

Page 5, line 19, delete "(4)" and insert "(5)".

Page 5, line 25, delete "(5)" and insert "(6)".

Page 5, line 27, delete "(6)" and insert "(7)".

Page 5, line 30, delete "(7)" and insert "(8)".

Page 5, line 32, delete "(8)" and insert "(9)".

Page 6, line 2, delete "(9)" and insert "(10)".

(Reference is to SB 217 as printed January 27, 2006.)

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